

REMARKS

In the Office Action dated August 14, 2003, an affirmation of an election of claims 1-4 is required. Claims 1-4 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,017,412 to Van Erden et al. (hereinafter “Van Erden”). Claims 1-4 also stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,511,406 to Ohtsubo (hereinafter “Ohtsubo”). Finally, claims 1-4 stand rejected under 35 U.S.C. §103(a) as obvious over Admitted Prior Art in view of either Van Erden or Ohtsubo.

In response, Applicant has amended claim 1, which when considered with the remarks set forth below are deemed to place the application in condition for allowance. Applicant has amended claim 1 to specify that the end-sealing of the fastener strip supply occurs prior to a form fill and seal process. Support for this amendment is found in the specification at page 2, line 18 to page 3, line 2. Applicant has also amended claim 1 to recite that the end sections consist essentially of the interlocked portions of the fastener strip. Support for this amendment is found in Figs. 1-3, which clearly show the interlock portions of the fastener strip being fused and not the entire transverse length of the fastener strip. No new matter is being added. Claims 1-4 remain in the application for continued prosecution. Reconsideration of the application is respectfully requested.

Restriction Requirement

Applicant has been advised that an affirmation is required of the verbal election of claims 1-4 for examination. In response, Applicant hereby affirms the election of claims 1-4.

Rejection under 35 U.S.C. §102(b)

Claims 1-4 stand rejected as anticipated by Van Erden. Basically it is the Examiner's contends that Van Erden's disclosure of end-sealing a transverse applied zipper to a thermoplastic web during a form, fill and seal process meets all the elements of the claim 1.

Applicant respectfully submits that Van Erden does not anticipate claims 1-4 for at least two reasons. First, claim 1 requires the formation of the first and second end seals to be separate and sequential steps. To the contrary, Van Erden discloses the simultaneous fusing of the zipper ends. *See* Fig. 3. Second, claim 1 as amended clearly recites that formation of the end seals occurs before the zipper is used in a form, fill and seal (i.e., bag making) machine. Stated otherwise, end sealing of the zipper occurs before any attachment of the zipper to a thermoplastic web. To the contrary, Van Erden clearly discloses in Fig. 3 that the end seals are formed while the zipper is being attached to the thermoplastic web. Thus, Van Erden cannot anticipate claim 1 and dependent claims 2-4. Withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. §102(e)

Claims 1-4 stand rejected as anticipated by Ohtsubo. Basically, it is the Examiner's contention that Ohtsubo's disclosure of fusing the entire transverse length of the fastener strip meets all the elements of claims 1-4.

In response, Applicant submits that Ohtsubo does not anticipate claim 1, as amended. since Ohtsubo discloses fusing the entire transverse length of the fastener strip. As the Examiner will note, claim 1 now recites that the end sections consist essentially of interlocked portions of the fastener strip. As a result, claim 1 does not "read on" an entire fused transverse portion of the fastener strip, which Ohtsubo clearly discloses in Figs. 3 and 6. Nowhere does Ohtsubo

disclose fusing less than the entire transverse length of the fastener strip. Therefore, claim 1 and dependent claims 2-4 are not anticipated. Withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. §103(a)

Claims 1-4 also stand rejected as obvious over Admitted Prior Art in view of either Van Erden or Ohtsubo. The Examiner contends that Applicant's admission of end sections of fastener profiles become separated during use in combination with the end sealing taught by either Van Erden or Ohtsubo renders the claimed invention obvious.

In response, Applicant submits that no combination of the cited prior art renders obvious claim 1, as amended. Specifically, the cited prior art does not teach or suggest all the limitations of claim 1. For example, claim 1 requires that the first and second end sections consist essentially of fused portions of the interlocked members. However, both Van Erden and Ohtsubo teach sealing (i.e., fusing) more than just the interlocked members of the fastener strip. In addition, Van Erden discloses the formation of the end seals at the same time the fastener strip is sealed to the thermoplastic web on the form, fill and seal machine and not before. To the contrary, the invention of claim 1 requires that the end seals be formed prior to the individual length of fastener strip being subsequently fed to the form, fill and seal machine where it is then sealed to the thermoplastic web.

Second, neither combination provides one skilled in the art of reasonable expectation of success of providing an end sealed length of fastener strip suitable for subsequent use in a form, fill and seal machine. Applicant's Admitted Prior Art in combination with Van Erden provide no indication as to how a length of fastener strip with pre-formed end seals can be successfully feed to the form, fill and seal machine. Likewise, Applicant's Admitted Prior Art in combination with Ohtsubo would result in a length of fastener strip that could not be successfully fed in a form fill

and seal machine. Specifically, in order to guide the length of fastener strip to a form, fill and seal machine for subsequent attachment, the flanges of the fastener strip need to remain unsealed so that the flanges can straddle the guides. However, Ohtsubo teaches fusing (i.e., sealing) the entire transverse length of the fastener strip (i.e., the interlocked portion plus both sets of flanges on either side of the interlocked portion). As the Examiner will clearly note from Ohtsubo, there is absolutely no disclosure that the fused fastener strip of Ohtsubo can be successfully used in a form, fill and seal machine such as the machine disclosed in U.S. Patent No. 4,909,017 cited in Applicant's specification. In fact, the only disclosure in Ohtsubo of attaching the fused fastener strip is of the fastener strip being attached to a preformed bag body as shown in Fig. 2B. Accordingly, the cited prior art fails to provide one skilled in the art with a reasonable expectation of success.

In view of the above, the cited prior art does not render obvious claims 1-4. First, the cited prior art fails to teach or suggest all the claimed limitations. Second, the cited prior art fails to provide a reasonable expectation of success. Withdrawal of the rejection is respectfully requested.

Applicants do not believe that any fees are due with this amendment. However, if any additional fees are due, please charge such sums to our Deposit Account, 50-1145.

Respectfully submitted,



Gerald Levy  
Registration No. 24,419

Lindsay S. Adams  
Registration No. 36,425

Attorneys for Applicant

Pitney, Hardin, Kipp & Szuch LLP  
685 Third Avenue  
New York, NY 10017-4024  
(212) 297-5800